

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

---

Andrew Ray Longshore,                      Respondent,

v.

South Carolina Law  
Enforcement Division,                      Appellant.

---

Appeal From Newberry County  
Frank R. Addy, Circuit Court Judge

---

Memorandum Op. No. 2012-MO-009  
Heard April 4, 2012 – Filed April 11, 2012

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**AFFIRMED**

---

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh and Senior Assistant Attorney General David Spencer, of Columbia, for Appellant.

John A. O'Leary, of Columbia, for Respondent.

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**PER CURIAM:** South Carolina Law Enforcement Division ("SLED") appeals the decision of the circuit court, which reversed the family court's order requiring Andrew Longshore ("Respondent") to register on the South

Carolina Sex Offender Registry.<sup>1</sup> SLED contends the circuit court erred as: (1) it was without subject matter jurisdiction to review the family court's decision; and (2) Respondent, who was adjudicated delinquent after he admitted guilt to having committed criminal sexual conduct with a minor in the second degree, was not statutorily exempt from the registration requirement.

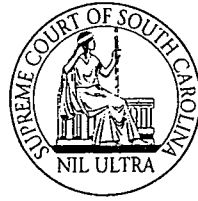
We affirm the circuit court's order pursuant to Rule 220(b)(1), SCACR, and the following authorities: Hazel v. State, 377 S.C. 60, 659 S.E.2d 137 (2008) (citing section 15-53-20 of the Declaratory Judgment Act, which provides that courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed, and concluding that the Court of Common Pleas had the power to make a factual finding as to whether respondent's kidnapping conviction required him to register as a sex offender); S.C. Code Ann. § 63-3-510(B) (2010) (formerly codified as section 20-7-400 and stating, "Whenever the court has acquired the jurisdiction of any child under seventeen years of age, jurisdiction continues so long as, in the judgment of the court, it may be necessary to retain jurisdiction for the correction or education of the child, but jurisdiction shall terminate when the child attains the age of twenty-one years. Any child who has been adjudicated delinquent and placed on probation by the court remains under the authority of the court only until the expiration of the specified term of his probation. This specified term of probation may expire before but not after the eighteenth birthday of the child."); State v. Jennings, 394 S.C. 473, 481-82, 716 S.E.2d 91, 95 (2011) (recognizing that for an issue, including a constitutional issue, to be properly preserved for appellate review it must be raised to and ruled on by the trial court).

**AFFIRMED.**

**PLEICONES, ACTING CHIEF JUSTICE, BEATTY,  
KITTREDGE, HEARN, JJ., and Acting Justice James E. Moore, concur.**

---

<sup>1</sup> S.C. Code Ann. §§ 23-3-400 to -555 (2007 & Supp. 2011).



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 26, 2012

Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

John A. O'Leary, Esquire  
O'Leary & Assoc., PA  
714 Calhoun St.  
Columbia, SC 29201

Re: Longshore, Andrew v. SCLED

Dear Counsel:

The record in the above case has been reviewed and the time allotment for oral argument for this case is as follows:

Appellant	10 minutes
Respondent	10 minutes
Appellant in Reply	5 minutes

This case is scheduled for hearing on Wednesday, April 4, 2012 at 10:00 a.m.

Very truly yours,

Daniel E. Shearouse, Clerk

By *Debbie M. Hopkins*

Administrative Assistant

DES/dmh

# O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

*Katie O'Leary Fayssoux (of Counsel)*

February 24, 2012

**Via Fax - 734-1499**

Hon. Daniel E. Shearouse  
Clerk of Court  
SC Supreme Court  
1231 Gervais St.  
PO Box 11330  
Columbia, SC 29211

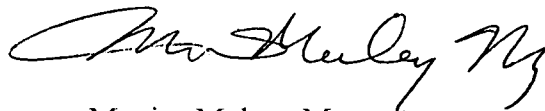
RE: State of South Carolina vs. Andrew Ray Longshore  
Case No(s):  
Charge(s): Appeal

Dear Mr. Shearouse:

Pursuant to your correspondence dated February 17, 2012, please be advised that the only day Mr. O'Leary has a conflict is April 5, 2012. Mr. O'Leary has a grievance appeal hearing that is scheduled in front of the SC Budget & Control Board. The hearing can be rescheduled if needed.

Thank you for your time and consideration in this matter. If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,



Monica Mulvey Mcgee  
Paralegal

JAO/mkm

cc: Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Andrew R. Longshore

**RECEIVED**

FEB 27 2012

**S.C. SUPREME COURT**

# O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

*Katie O'Leary Fayssoux (of Counsel)*

February 21, 2012

Hon. Daniel E. Shearouse  
Clerk of Court  
SC Supreme Court  
1231 Gervais St.  
PO Box 11330  
Columbia, SC 29211

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FEB 24 2012  
S.C. SUPREME COURT

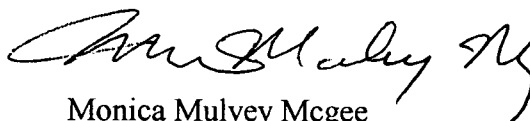
RE: State of South Carolina vs. Andrew Ray Longshore  
Case No(s):  
Charge(s): Appeal

Dear Mr. Shearouse:

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Thank you for your time and consideration in this matter. If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,



Monica Mulvey Mcgee  
Paralegal

JAO/mkm

cc: Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Andrew R. Longshore



## The South Carolina Supreme Court

DANIEL E. SHEAROUSE  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

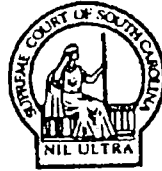
P.O. BOX 11330  
COLUMBIA, S.C. 29211  
PHONE NO. 734-1080

To: John A. O'Leary, Esquire  
From: Daniel E. Shearouse  
Date: February 17, 2012  
RE: April Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the April 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of April 3, 4, 5, 17 and 18. Please notify this office in writing prior to February 24, 2012 as to any scheduling conflicts for the April term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Longshore, Andrew v. SCLED



# The South Carolina Supreme Court

DANIEL E. SHEAROUSE  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

P.O. BOX 11330  
COLUMBIA, S.C. 29211  
PHONE NO. 734-1080

To: Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer

From: Daniel E. Shearouse

Date: February 17, 2012

RE: April Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the April 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of April 3, 4, 5, 17 and 18. Please notify this office in writing prior to February 24, 2012 as to any scheduling conflicts for the April term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Longshore, Andrew v. SCLED

# The Supreme Court of South Carolina

Andrew Longshore,

Respondent,

v.

South Carolina Law  
Enforcement Division,

Appellant.

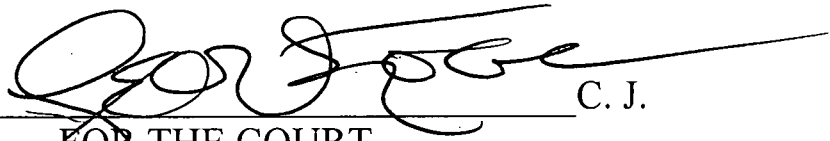
The Honorable Frank R. Addy  
Newberry County  
Trial Court Case No. 2010-CP-36-00472

---

## ORDER

---

Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, this appeal is hereby certified for review by the South Carolina Supreme Court. Upon receipt of this order, the Court of Appeals is hereby directed to forward the case file, all records and briefs and any exhibits on file to this Court.

  
C. J.  
FOR THE COURT

Columbia, South Carolina

February 16, 2012

cc: Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
John A. O'Leary, Esquire  
The Honorable Tanya Gee



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

October 6, 2011

Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Re: Longshore, Andrew v. SCLED  
Case Tracking #: 2011187806

Dear Counsel:

We have received the Record on Appeal and all final briefs in the above matter. Unfortunately, the covers of the Appellant's Final Brief and Appellant's Final Reply Brief did not include the lower court number.

Therefore, within ten days of the date of this letter, you are requested to have someone come to the first floor of the Brown Building and place labels on these briefs to add the lower court number. Please call at least 24 hours prior to your arrival so that the briefs can be made available without delay.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/ec

cc: John A. O'Leary, Esquire



ALAN WILSON  
ATTORNEY GENERAL

September 8, 2011

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Andrew Longshore v. South Carolina Law Enforcement Division

Dear Ms. Gee:

Enclosed please find the original and fourteen (14) copies of the **Record on Appeal** in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this brief today.

Sincerely,

David Spencer  
Senior Assistant Attorney General

DS/nb  
**Enclosures**

cc: John A. O'Leary, Esquire (2 copies enclosed)

**RECEIVED**  
SEP 08 2011  
**SC Court of Appeals**

# The South Carolina Court of Appeals

Andrew Ray Longshore, Respondent,

v.

South Carolina Law Enforcement  
Division, Appellant.

The Honorable Frank R. Addy  
Newberry County  
Trial Court Case No. 2010-CP-36-00472

---

## ORDER

---

For good cause having been shown, the time for serving and filing the Record on Appeal in the above entitled matter is hereby extended until September 9, 2011.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc: Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
John A. O'Leary, Esquire

8/10/11  
**FILED**



ALAN WILSON  
ATTORNEY GENERAL

August 5, 2011

**VIA HAND DELIVERY**

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**Re: Andrew Longshore v. South Carolina Law Enforcement Division  
2010-CP-36-472**

Dear Ms. Gee:

The Record on Appeal in the above appeal is due to be served and filed August 10, 2011. However, due to an unusually heavy workload, I am requesting a thirty day extension.

By copy of this letter, I am advising counsel for Appellant, John O'Leary of this extension request.

Sincerely,

David Spencer  
Senior Assistant Attorney General

DS/nb

cc: John A. O' Leary, Esquire

**RECEIVED**

AUG 05 2011

**SC Court of Appeals**

8/10/11  
9/9/11 185

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

The Honorable Frank R. Addy Jr., Circuit Court Judge

---

Case No. 2010-CP-36-472

---

Andrew Longshore..... Respondent,

v.

South Carolina Law Enforcement Division..... Appellant.

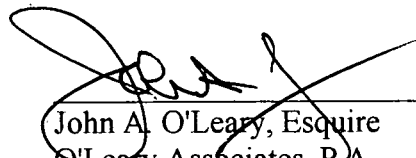
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CERTIFICATE OF COUNSEL

---

Pursuant to SCACR Rule 209(c), the undersigned certifies that the Respondent's Designation of Matter contains no matter which is irrelevant to the appeal.

July 22, 2011

  
\_\_\_\_\_  
John A. O'Leary, Esquire  
O'Leary Associates, P.A.  
714 Calhoun Street  
Columbia, SC 29201  
Telephone: (803) 779-5556  
Facsimile: (803) 252-7515  
E-Mail: [olearyl原因@yahoo.com](mailto:olearyl原因@yahoo.com)

Attorney for Respondent

RECEIVED  
JUL 25 2011  
In Court of Appeals

# O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

*Katie O'Leary Fayssoux (of Counsel)*

July 22, 2011

Hon. Tanya Gee, Clerk  
SC Court of Appeals  
1015 Sumter Street  
Post Office Box 11629  
Columbia, SC 29211

RE: Andrew Ray Longshore v. SLED  
Case No. 2010-CP-36-472

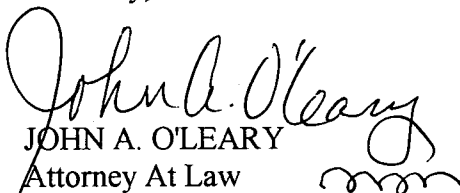
Dear Ms. Gee:

Please find enclosed the original and one copy of Respondent's Certificate of Counsel to be attached to our Designation of Matter in connection with the above referenced matter. Please file the original and return the clocked copy using the enclosed envelope.

By copy of this letter and enclosures to Mr. Spencer, we are serving Appellant SLED copies of same.

If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,

  
JOHN A. O'LEARY  
Attorney At Law

JAO/mkm  
Enclosures

cc: David Spencer, Esquire

RECEIVED  
JUL 25 2011  
SC Court of Appeals

**IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

**APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas**

**The Honorable Frank R. Addy Jr., Circuit Court Judge**

---

**Case No. 2010-CP-36-472**

---

**Andrew Longshore ..... Respondent,**

**v.**

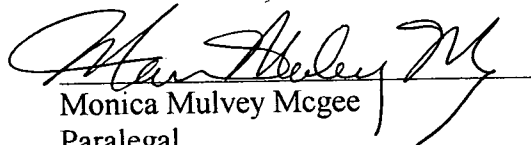
**South Carolina Law Enforcement Division ..... Appellant.**

---

**PROOF OF SERVICE**

---

I certify that I have served the Respondent's Certificate of Counsel for the Designation of Matter on Appellant South Carolina Law Enforcement Division by depositing a copy of them in the United States Mail, postage prepaid, on July 22, 2011, addressed to its attorney of record, David Spencer, Esquire, Office of the Attorney General, Post Office Box 11549, Columbia, SC 29211.



Monica Mulvey Mcgee  
Paralegal  
O'Leary Associates, P.A.  
714 Calhoun Street  
Columbia, SC 29201  
Telephone: (803) 779-5556  
Facsimile: (803) 252-7515  
E-Mail: [olearyl原因@yahoo.com](mailto:olearyl原因@yahoo.com)

Attorneys for Respondent

**RECEIVED  
JUL 25 2011  
COURT OF APPEALS**



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 21, 2011

John A. O'Leary, Esquire  
O'Leary & Assoc., PA  
714 Calhoun St.  
Columbia, SC 29201

Attorney General Alan Wilson  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Re: Longshore, Andrew v. SCLED  
**2011187806**

Dear Counsel:

Upon review, it has come to the Court's attention that the Designation of Matter for the Respondent's Initial Brief was filed without a Certificate of Counsel, in accordance with Rule 209 of the South Carolina Appellate Court Rules. The Respondent is to provide this Court with a Certificate of Counsel for the Designation of Matter within ten (10) days of the date of this letter.

All parties are advised that the originals of all records on appeal and final briefs filed with the appellate courts are scanned. Therefore, in accordance with the May 1, 2008 Amendments to the South Carolina Appellate Court Rules, DO NOT staple, spiral bind, velobind, or otherwise permanently bind the ORIGINALS of these documents. The original brief(s) and record on appeal should still have front and back covers in compliance with Rule 267(e) of the South Carolina Appellate Court Rules, but should not be bound. You may secure the originals with paper clips, binder clips, rubber bands, by placing them in large envelopes, or by any other similar means that will keep the pages together without binding or hole-punching. All COPIES of the record on appeal and final briefs should be bound as specified in the South Carolina Appellate Court Rules.

If you have any questions, please do not hesitate to contact this office.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal From Newberry County  
The Honorable Frank R. Addy, Jr., Circuit Court Judge  
\_\_\_\_\_

Andrew Longshore,

Respondent,

vs.

South Carolina Law Enforcement Division,

Appellant.

\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, Norma Bigbee, certify that I have served the within Initial Reply Brief of Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

John O'Leary, Esquire  
714 Calhoun Street  
Columbia, SC 29201

I further certify that all parties required by Rule to be served have been served.

This 11th day of July 2011.

  
\_\_\_\_\_  
NORMA BIGBEE  
Legal Assistant

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

July 11, 2011

RECEIVED  
JUL 11 2011  
SC Court of Appeals

**VIA HAND DELIVERY**

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: **Andrew Longshore v. South Carolina Law Enforcement Division**

Dear Ms. Gee:

Enclosed please find the original of the **Initial Reply Brief of Appellant** in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this brief today.

Sincerely,

David Spencer  
Senior Assistant Attorney General

DS/nb  
Enclosures

cc: John O'Leary, Esquire (2 copies enclosed)  
Trisha Allen, Victim Services (1 copy enclosed)

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

The Honorable Frank R. Addy Jr., Circuit Court Judge

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JUL 01 2011

SC Court of Appeals

Case No. 2010-CP-36-472

Andrew Longshore ..... Respondent,

v.

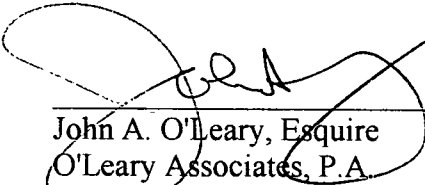
South Carolina Law Enforcement Division ..... Appellant.

DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

Respondent proposes the following to be included in the Record on Appeal:

1. Entire transcript dated February 3, 2011 (pp. 1 – 16);
2. Order of the Honorable Frank R. Addy, dated February 10, 2011;
3. Order of Probation, dated February 13, 2003;
4. Complaint filed October 1, 2010; and
5. Amended Complaint filed February 3, 2011.

July 1, 2011

  
John A. O'Leary, Esquire  
O'Leary Associates, P.A.  
714 Calhoun Street  
Columbia, SC 29201  
Telephone: (803) 779-5556  
Facsimile: (803) 252-7515  
E-Mail: [olearyl@yaho.com](mailto:olearyl@yaho.com)

Attorney for Respondent

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

JUL 01 2011

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

SC Court of Appeals

The Honorable Frank R. Addy Jr., Circuit Court Judge

Case No. 2010-CP-36-472

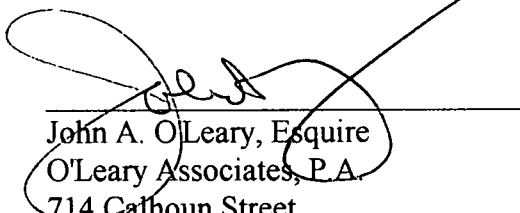
Andrew Longshore..... Respondent,

v.

South Carolina Law Enforcement Division ..... Appellant.

PROOF OF SERVICE

I certify that I have served the Respondent's Initial Brief and Designation of Matter on Appellant South Carolina Law Enforcement Division by depositing a copy of them in the United States Mail, postage prepaid, on July 1, 2011, addressed to its attorney of record, David Spencer, Esquire, Office of the Attorney General, Post Office Box 11549, Columbia, SC 29211.

  
John A. O'Leary, Esquire  
O'Leary Associates, P.A.  
714 Calhoun Street  
Columbia, SC 29201  
Telephone: (803) 779-5556  
Facsimile: (803) 252-7515  
E-Mail: [olearyl@yaho.com](mailto:olearyl@yaho.com)

Attorney for Respondent

# O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

*Katie O'Leary Fayssoux (of Counsel)*

July 1, 2011

**Via Hand Delivery**

Hon. Tanya Gee, Clerk  
SC Court of Appeals  
1015 Sumter Street  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**

JUL 01 2011

**SC Court of Appeals**

RE: Andrew Ray Longshore v. SLED  
Case No. 2010-CP-36-472

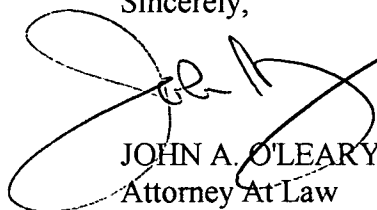
Dear Ms. Gee:

Please find enclosed the original and one copy of Respondent's Initial Brief and Designation of Matter in connection with the above referenced matter. Please file the original and return the clocked copy to our courier.

By copy of this letter and enclosures to Mr. Spencer, we are serving Appellant SLED copies of same.

If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,



JOHN A. O'LEARY  
Attorney At Law

JAO/mkm  
Enclosures

cc: David Spencer, Esquire  
Andrew Longshore

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal From Newberry County  
The Honorable Frank R. Addy, Jr., Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**

JUN 03 2011

**SC Court of Appeals**

Andrew Longshore,

Respondent,

vs.

South Carolina Law Enforcement Division,

Appellant.

\_\_\_\_\_  
**DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**  
\_\_\_\_\_

Appellant proposes the following to be included in the Record on Appeal:

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- 3) Order of Probation, dated February 13, 2003.


The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DAVID SPENCER  
Senior Assistant Attorney General

By:   
\_\_\_\_\_  
DAVID SPENCER

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR APPELLANT

June 3, 2011

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal From Newberry County  
The Honorable Frank R. Addy, Jr., Circuit Court Judge  
\_\_\_\_\_

RECEIVED

JUN 03 2011

SC Court of Appeals

Andrew Longshore,

Respondent,

vs.

South Carolina Law Enforcement Division,

Appellant.

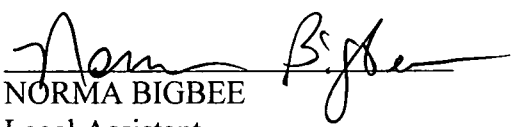
\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, Norma Bigbee, certify that I have served the within Initial Brief of Appellant and Designation of Matter on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

John O'Leary, Esquire  
714 Calhoun Street  
Columbia, SC 29201

I further certify that all parties required by Rule to be served have been served.

This 3<sup>rd</sup> day of June 2011.

  
\_\_\_\_\_  
NORMA BIGBEE  
Legal Assistant

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

June 3, 2011

**VIA HAND DELIVERY**

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**  
JUN 03 2011  
SC Court of Appeals

Re: **Andrew Longshore v. South Carolina Law Enforcement Division**

Dear Ms. Gee:

Enclosed please find the original of the **Initial Brief of Appellant and Designation of Matter** in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this brief today.

Sincerely

David Spencer  
Senior Assistant Attorney General

DS/nb  
Enclosures

cc: John O'Leary, Esquire (2 copies enclosed)  
Trisha Allen, Victim Services (1 copy enclosed)



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

June 1, 2011

Attorney General Henry Dargan McMaster  
Chief Deputy Attorney General John W. McIntosh  
Senior Assistant Attorney General David Spencer  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Re: Longshore, Andrew v. SCLED  
2011187806

Dear Counsel:

The following Order has been endorsed on your Petition to Relax Rules 208 & 209, SCACR and Request for Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.  
For the Court

By s/ Tanya A. Gee  
Clerk

June 01, 2011.”

Please be advised the Appellant’s Initial Brief and Designation of Matter must be served and filed no later than June 13, 2011.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/laf

cc: John A. O’Leary, Esquire

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal From Newberry County  
Frank R. Addy, Circuit Court Judge

**RECEIVED**

MAY 25 2011

**SC Court of Appeals**

Andrew Longshore,

Respondent,

vs.

South Carolina Law Enforcement Division,

Appellant.

**PETITION TO RELAX RULES 208 & 209, SCACR  
AND REQUEST FOR EXTENSION**

Above named Appellant, by and through undersigned counsel, making its Petition to Relax Rules 208 and 209, SCACR, and Request for Extension, would show unto this Court:

I.

The Initial Brief of Appellant and Designation of Matter in the above captioned matter was due to be filed and served on May 12, 2011. However, the matter was not properly calendared.

II.

In view of the foregoing, it is respectfully requested that this Court relax Rules, 208 and 209 SCACR, and allow the Appellant an extension up to and including thirty days, to file and serve its initial brief and designation of matter.

6-10-11  
9:45 am

5/12/11

1<sup>st</sup> motion

6/13/11

WHEREFORE, it is respectfully requested that this Petition be granted.

Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

DAVID SPENCER  
Senior Assistant Attorney General

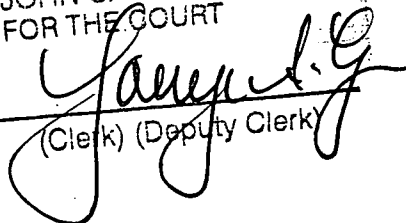
By:   
DAVID SPENCER

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR APPELLANT

May 25, 2011

GRANTED  
JOHN CANNON FEW, C.J.  
FOR THE COURT

By:   
(Clerk) (Deputy Clerk)

**FILED**  


STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal From Newberry County  
Frank R. Addy, Circuit Court Judge

---

Andrew Longshore,

Respondent,

vs.

South Carolina Law Enforcement Division,

Appellant.


**PROOF OF SERVICE**

---

I, Norma Bigbee, certify that I have served the within Petition to Relax Rules 208 & 209, SCACR and Request for Extension on Respondent by depositing a copy of the same in the United States mail, postage prepaid, addressed to John O'Leary, Esquire; 714 Calhoun Street; Columbia, SC 29201.

I further certify that all parties required by Rule to be served have been served.

This 25<sup>th</sup> day of May 2011.

  
NORMA BIGBEE  
Legal Assistant

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

May 25, 2011

**RECEIVED**  
MAY 25 2011

**SC Court of Appeals**

**Via Hand-Delivery**

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, S. C. 29211

Re: Andrew Ray Longshore v. South Carolina Law Enforcement Division

Dear Ms. Gee:

Enclosed please find the original and six (6) copies of the Petition to Relax Rules 208 and 209, SCACR, and Request for Extension for filing in your office.

Sincerely,

David Spencer  
Senior Assistant Attorney General

Enclosures

cc: John O'Leary, Esquire  
714 Calhoun Street  
Columbia, SC 29201



ALAN WILSON  
ATTORNEY GENERAL

April 12, 2011

**RECEIVED**

APR 12 2011

**SC Court of Appeals**

**HAND-DELIVERED**

The Honorable Tanya A. Gee  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Andrew Ray Longshore v. South Carolina Law Enforcement Division,

Dear Ms. Gee:

The purpose of this letter is to advise the Court that I received the transcript from the lower court's proceedings for the above appeal. By my calculations, pursuant to SCACR, Rule 208(a)(1), the Initial Brief of Petitioner is therefore due on May 12, 2011. Please let me know if my belief is incorrect.

Please feel free to contact me with any questions or comments.

Sincerely,

David Spencer  
Senior Assistant Attorney General

cc: John A. O'Leary, Esquire  
714 Calhoun Street  
Columbia, SC 29201



ALAN WILSON  
ATTORNEY GENERAL

March 23, 2011

Ms. Joy E. Holston  
118 Sandy Beach Drive  
Prosperity, SC 29127

Re: Andrew Ray Longshore v. South Carolina Law Enforcement Division,  
2010-CP-36-472

Dear Ms. Holston:

On February 3, 2011 a hearing was held on the above matter before the Honorable Frank R. Addy. Our records indicate that you were the court reporter for this case. Our office represents the Law Enforcement Division in this matter.

Please provide me with a complete transcript of the proceedings. Please submit an invoice with the transcript, and we will send payment to you as soon as possible.

Please call me at (803) 734-3689 if you have any questions.

Sincerely,

David Spencer  
Senior Assistant Attorney General

cc: The Honorable Tanya A. Gee  
John A. O'Leary, Esquire  
Roselyn W. Frierson, Court Administration

**RECEIVED**

MAR 23 2011

**SC Court of Appeals**



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
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March 23, 2011

David A. Spencer, Esquire  
S.C. Attorney General's Ofc.  
P.O. Box 11549  
Columbia, SC 29211

Re: Longshore, Andrew v. SCLED  
2011187806

Dear Mr. Spencer:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within TEN days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

**NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:**

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,

*V. Claire Allen, Deputy*

Tanya A. Gee  
CLERK

TAG/laf

cc: John O'Leary, Esquire



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
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TELEPHONE: (803) 734-1890  
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[www.sccourts.org](http://www.sccourts.org)

March 23, 2011

David A. Spencer, Esquire  
S.C. Attorney General's Ofc.  
P.O. Box 11549  
Columbia, SC 29211

Re: Longshore, Andrew v. SCLED  
**2011187806**

Dear Mr. Spencer:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/laf

cc: John O'Leary, Esquire

# The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and  
Other Sensitive Information in Appellate Court Filings

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## ORDER

---

Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,<sup>1</sup> documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:<sup>2</sup>

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, *supra*, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal \_\_\_\_\_ C.J.

s/James E. Moore \_\_\_\_\_ J.

s/John H. Waller, Jr. \_\_\_\_\_ J.

s/E.C. Burnett, III \_\_\_\_\_ J.

s/Costa M. Pleicones \_\_\_\_\_ J.

Columbia, South Carolina

August 13, 2007

---

<sup>1</sup> See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

<sup>2</sup> This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

PM Jend  
PDS 3/17/11

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

**RECEIVED**

MAR 17 2011

**SC Court of Appeals**

Case No. 2010-CP-36-472

Andrew Ray Longshore ..... Respondent

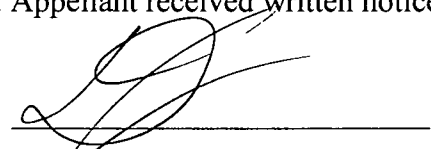
v.

South Carolina Law Enforcement Division ..... Appellant

**NOTICE OF APPEAL**

South Carolina Law Enforcement Division appeals the order of the Honorable Frank R. Addy, Jr. dated February 10, 2011. Appellant received written notice of entry of this order on February 16, 2011.

March 17, 2011



David Spencer  
Assistant Attorney General  
South Carolina Attorney General's Office  
P.O. Box 11549  
Columbia, South Carolina 29211  
(803) 734-3689  
Attorney for Appellant

Other Counsel of Record:

John O'Leary  
714 Calhoun Street  
Columbia, South Carolina 29201  
Attorney for Respondent  
(803) 779-5556

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Newberry County  
Honorable Frank R. Addy, Jr, Circuit Court Judge  
\_\_\_\_\_

ANDREW RAY LONGSHORE,

Respondent,

vs.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

Appellant.

\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, Ashley D. Buchanan, certify that I have served the Notice of Appeal on the Respondent by depositing a copy of same in the United States mail, postage prepaid, addressed to:

John O'Leary  
714 Calhoun Street  
Columbia, South Carolina 29201

I further certify that all parties required by Rule to be served have been served.  
This 17<sup>th</sup> day of March, 2011.



\_\_\_\_\_  
ASHLEY D. BUCHANAN  
Office of Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3727

RECEIVED  
MAR 17 2011  
SC COURT OF APPEALS



ALAN WILSON  
ATTORNEY GENERAL

March 17, 2011

(VIA Hand Delivery)  
The Honorable Tanya Gee  
Clerk of Court  
South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

RECEIVED  
MAR 17 2011  
SC Court of Appeals

Re: Andrew Ray Longshore vs. SLED  
Case no.: 2010cp-36-472

Dear Ms. Gee:

Please find enclosed South Carolina Law Enforcement Division's Notice of Appeal of an Order dated February 10, 2011 in the above referenced case. Also enclosed are a copy of the Order on appeal and a certificate of service. By copy of this letter and enclosures sent by certified mail, I am notifying John O'Leary, Counsel for Mr. Longshore, of South Carolina Law Enforcement Division's intent to appeal.

Sincerely yours,

David Spencer  
Assistant Attorney General

cc (with enclosures):

John O'Leary  
714 Calhoun Street  
Columbia, South Carolina 29201

STATE OF SOUTH CAROLINA **RECEIVED** JUDGMENT IN A CIVIL CASE

COUNTY OF NEWBERRY

MAR 17 2011

CASE NO: 2010CP3600472

IN THE COURT OF COMMON PLEAS

**SC Court of Appeals**

**Andrew Ray Longshore vs. Law Enforcement Division South Carolina**

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**
  - Rule 12(b), SCRPC;
  - Rule 41(a), SCRPC (Vol. Nonsuit);
  - Rule 43(k), SCRPC (Settled);
  - Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**
  - Rule 40(j) SCRPC;
  - Bankruptcy;
  - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
  - Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
  - Affirmed;
  - Reversed;
  - Remanded;
  - Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:

**Order Granting Declaratory Judgment**

Dated at Newberry, South Carolina, this 10th day of February 2011.

Court Reporter:

S/Frank R. Addy, Jr.

**PRESIDING JUDGE - Frank R. Addy, Jr.**

This judgment was entered on the 10th day of February 2011, and a copy mailed first class this 15th day of February 2011, to attorneys of record or to parties (when appearing pro se) as follows:

John A. O'Leary O'Leary & Assoc., PA 714  
Calhoun St. Columbia, SC 29201

Geoffrey Kelly Chambers S.C. Attorney General's  
Ofc. P.O. Box 11549 Columbia, SC 29211

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**ATTORNEY(S) FOR THE DEFENDANT(S)**

S/Jackie S. Bowers (BJB)

Jackie S Bowers - Clerk of Court

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF NEWBERRY )  
 )  
 Andrew Ray Longshore, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 South Carolina Law Enforcement )  
 Division, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 EIGHTH JUDICIAL CIRCUIT  
 C.A. No.: 2010-CP-36-00472

ORDER GRANTING  
 DECLARATORY JUDGMENT

RECEIVED

MAR 17 2011

SC Court of Appeals

FILED  
 NEWBERRY COUNTY  
 2011 FEB 10 P 4:42

On February 3, 2011, a hearing was held before the Honorable Frank R. Addy, presiding. Present at the hearing were the Plaintiff, Andrew Ray Longshore, and his counsel, John A. O'Leary. Appearing as counsel for the Defendant, South Carolina Law Enforcement Division, was Geoffrey K. Chambers. Also present and available for testimony was Plaintiff's sister and victim, Brittney Laurel Longshore. Testimony was waived by both the Plaintiff and the State (Defendant); however, Affidavits and certified documents were admitted upon consent of both parties.

**FACTUAL AND PROCEDURAL BACKGROUND**

On August 15, 2002 a Petition was filed in the Family Court of Newberry County charging that the Plaintiff did commit the offense of Criminal Sexual Conduct with a Minor 2<sup>nd</sup> Degree, a violation of the Code of Laws of South Carolina. Records reflect that an adjudicatory hearing was held on December 12, 2002 where the Plaintiff was adjudicated delinquent for the Criminal Sexual Conduct with a Minor 2<sup>nd</sup> Degree as charged. On February 13, 2003, a dispositional hearing was held before the Honorable Joseph W. McGowon, who found that

*MA*

Plaintiff should be placed on probation for a period of one year with numerous conditions, including to follow the protocol of the sex offender registry and no contact with the victim. At the time of his conviction on or about December 12, 2002, Plaintiff was 15 years old and the victim, at the time of the violation, was age 12.

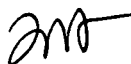
Plaintiff filed a Petition for Declaratory Judgment on October 1, 2010 with an Amended Complaint filed on February 3, 2011. Plaintiff brought this action to remove his name from the Sex Offender Registry. At the February 3, 2011 hearing, this Court reviewed all exhibits including certified copies of Birth Certificates for both the Plaintiff and the victim along with Affidavits (submitted with the consent of the State (Defendant) stating that the sexual relationship between the Plaintiff and the victim was consensual and, at that time, both the Plaintiff and victim were minors and brother and sister. No transcripts of the 2002 proceedings exist as there is only a requirement to maintain such tapes for six years. Counsel for Plaintiff proffered to the Court that he attempted to secure such transcript.

In his Petition, Plaintiff references S. C. Code Ann. §23-3-430(c)(5) which states,

*“criminal sexual conduct with minors (2<sup>nd</sup> Degree), if evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(3) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article.”*

#### **LEGAL DISCUSSION & TESTIMONY**

The Court recognizes authority of the Common Pleas Court and its jurisdiction to make a determination in a case such as is currently before this Court, Hazel v. State, 377 S.C. 60, 659 S.E. 2d 137 (2008). The evidence before this Court shows beyond any doubt that, at the time of



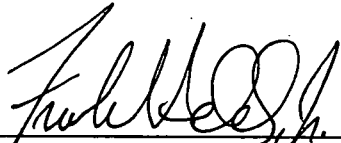
the assault, both parties were under the age of sixteen, falling within the parameters set forth in S.C. Code Ann. §23-3-430(c)(5). Documentation of the adjudication of the 2002 charge does not reflect any reference to the sex between the parties being consensual; however, records and documents now before this Court show clearly that it was in fact consensual. S.C. Code Ann. §23-3-430(c)(5) states that, with consensual sexual relations between parties under the age of sixteen, the convicted person is not required to register pursuant to the provisions of this Article.

### CONCLUSION

NOW, THEREFORE, it is the determination of this Court that Plaintiff's removal from the Sex Offender Registry is the proper remedy as referenced in Hazel (supra). The Court hereby finds that the sexual offense was in fact consensual and that the parties fall within the parameters of the Statute and registration is not required.

Further, Plaintiff's Petition for Declaratory Judgment is hereby granted and Plaintiff shall be removed from the Sex Offender Registry effective the date of this Order.

AND IT IS SO ORDERED.

  
The Honorable Frank R. Addy, Jr.

February 10, 2011

Newberry, SC